

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GLORIA DAIL, §
§
Plaintiff, §
§
v. § CIVIL ACTION No. 22-cv-3489
§ **JURY**
ROSS STORES, INC D/B/A
ROSS DRESS FOR LESS,
§
Defendant. §

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Ross Dress for Less, Inc., d/b/a Ross Dress for Less (“Ross”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing the above-captioned case to the United States District Court for the Southern District of Texas, Houston Division. The grounds for removal are as follows:

I. Introduction

1. Plaintiff Gloria Dail (“Plaintiff”), at the time this action was commenced, was, and still is, a resident and citizen of Texas.
2. Ross, at the time this action was commenced, was, and still is, a corporation formed under the laws of California and headquartered in California.
3. Plaintiff claims that on or about August 27, 2020, she was shopping at the Ross store located at 100 W. Highway 332 #1174, Lake Jackson, Brazoria County, Texas 77566 when she slipped and fell on a broken bottle of oil which cut her hand and caused her to bleed profusely. Plaintiff’s Original Petition at pp. 2. Plaintiff contends that she has suffered severe injuries as a result of same. *Id.*

4. On or about August 23, 2022, Plaintiff commenced a lawsuit in the 412th Judicial District Court of Brazoria County, Texas, Cause No. 119313-CV, styled *Gloria Dail v. Ross Stores, Inc. d/b/a Ross Dress for Less* at p. 1. Plaintiff requested a citation for service of process on or about August 25, 2022. Defendant was served on or about August 25, 2022.

5. Plaintiff avers, inter alia, that Ross was negligent in failing to maintain its premises, among other things. *Id.* at p. 2-5. Consequently, Plaintiff seeks to recover damages for negligence. *Id.*

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.00.

6. Plaintiff is a citizen and resident of Texas. Ross is a citizen and a resident of California. Thus, the parties are completely diverse. *See* 28 U.S.C. § 1332(a).

7. Plaintiff is seeking damages in excess of \$75,000.00. In particular, Plaintiff's petition seeks "monetary relief not more than \$1,000,000.00". *See* Plaintiff's Original Petition at p. 6. Therefore, the amount in controversy exceeds \$1,000,000.00.

B. Venue is Proper in This Division and in This District.

8. Plaintiff filed this action in Brazoria County, Texas. The Houston Division of the Southern District of Texas encompasses Brazoria County, Texas. Thus, this district and division embrace the place where the state court action is pending. *See* 28 U.S.C. § 1441(a).

III. Procedural Requirements for Removal

9. This Notice of Removal is filed before the expiration of the agreement, which was provided by opposing counsel in which to file a responsive pleading. Thus, Defendant contends this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

10. Copies of all processes, pleadings, and orders have been filed separately with this Court. *See* 28 U.S.C. § 1446(a).

11. Pursuant to Local Rule 81 of the Southern District of Texas, the following documents are attached to this Notice of Removal: copy of all processes, attached hereto as Exhibit "A"; all pleadings and orders signed by the Judge attached hereto as Exhibit "B"; an Index of Matters Being Filed, attached hereto as Exhibit "C"; and a list of all Counsel of Record, including addresses, telephone numbers and parties represented is attached hereto as Exhibit "D".

12. A copy of this Notice of Removal will be filed with the Brazoria County District Clerk's office promptly and will be served on Plaintiff promptly. *See* 28 U.S.C. § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005) (Crone, J).

13. The filing fee has been paid to the Clerk.

14. Defendant hereby requests a trial by jury.

IV. Prayer

15. WHEREFORE, PREMISES CONSIDERED, Defendant Ross prays that the above-styled action now pending in the 412th Judicial District Court of Brazoria County, Texas be removed there from to this Honorable Court.

16. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

GERMER PLLC

By: /s/ *Serena Harmon*

Troy A. Williams
State Bar No. 00788678
Federal I.D. No. 19043
America Tower
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
Telephone: (713) 650-1313
Facsimile: (713) 739-7420
Email: twilliams@germer.com

**ATTORNEYS FOR DEFENDANT ROSS
DRESS FOR LESS, INC., D/B/A ROSS
DRESS FOR LESS**

OF COUNSEL:

Serena D. Harmon
State Bar No. 00785943
Federal I.D. No. 18037
America Tower
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
Telephone: (713) 650-1313
Facsimile: (713) 739-7420
Email: sharmon@germer.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been duly sent via CM/ECF and/or electronic mail on October 10, 2022, to all counsel of record, as follows:

John@kahnlawyers.com

Jennifer@kahnlawyers.com

John J. Kahn, Jr.

Jennifer H. Kahn

The Kahn Law Firm, P.C.

2225 County Road 90, Suite 109

Pearland, Texas 77585

Telephone: 713-226-9900

Attorneys for Plaintiff

/s/ Serena Harmon
Serena Harmon